

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1228 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SAKARAJI S THAKORE

Versus

G E B

Appearance:

MR AY KOGZE for Petitioner

MS MAYA DESAI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/01/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

1. How technicalities of law and procedure defeats
the substantial justice to the litigants, is borne out
from this case.

2. The facts of the case, in brief, are that the plaintiff- petitioner filed regular civil suit No. 183 of 1990 in the court of Civil Judge (S.D.) at Mirzapur against the defendants- respondents and the State of Gujarat. In later point of time, the plaintiff petitioner deleted the State of Gujarat as defendant from the suit. The trial court, i.e. Civil Judge (S.D.) at Mirzapur under its order dated 16th June, 1993 was pleased to return the plaint and to direct the plaintiff petitioner to present the same to appropriate court within ten days. The plaint has been presented in the court of Civil Judge (J.D.), Dholka on 29th June, 1993. 26th June, 1993 and 27th June, 1993 were holidays. The plaint was filed one day late in the appropriate court. The plaintiff- petitioner on 29th June, 1993 filed an application praying therein for condonation of delay of one day. This application came to be rejected under the impugned order dated 8th March, 1994 of the Civil Judge (J.D.), Dholka. Hence, this revision application.

3. From the reading of the order of the trial court, I find that the power lies with the court which returned the plaint under section 148 of C.P.C. to extend time for presenting the same in appropriate court and not with this court. I do not consider it to be necessary to go on this legal proposition. One thing is very clear from the order of the trial court that the power is there with the court under section 148 of C.P.C. to extend one day's time for filing of the plaint and it can also be done post-facto. When the Civil Judge (S.D.) Mirzapur has this power, it would have been better, after this order, instead of filing this revision application, the petitioner would have approached to that court but here in this State the litigants prefer to file the revision in the High Court. Be that as it may.

4. The delay of one day which is there in presenting the returned plaint in the appropriate court i.e. Civil Judge (J.D.), Dholka is condoned in exercise of powers under section 148 of C.P.C. and the court below is directed to try and decide the suit on merits. The suit is of the year 1990. Learned trial court is directed to dispose of the suit finally within a period of six months from the date of receipt of writ of this order or certified copy thereof, whichever is earlier. The civil revision application and Rule stand disposed of accordingly. As none put appearance for the respondents, no order as to costs.

zgs/-